

BOARD OF APPEALS CASE NO. 4991

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BEFORE THE

APPLICANT: Churchville Veterinary Clinic

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ZONING HEARING EXAMINER

REQUEST: Special Exception, interpretation and/or variance to operate a veterinary clinic in the B2 District;

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OF HARFORD COUNTY

Brierhill Drive & Churchville Road, Bel Air

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Hearing Advertised

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Aegis: 11/24/99 & 12/1/99

HEARING DATE: January 19, 2000

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Record: 11/26/99 & 12/3/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant is Churchville Veterinary Clinic, Inc. The Applicant is requesting a Special Exception to Section 267-53(H)(8) of the Harford County Code, to operate a veterinary clinic and an interpretation of Section 267-53(H)(8)(a) and (b) to allow the veterinary clinic to operate on a parcel less than 3 acres without direct access to an arterial or collector road in a B2 District.

The subject property is owned by Victor Posner, LLC. The property is located on the south side of Churchville Road, east of Brierhill Drive in the Greenbrier Shopping Center, which is located in the Third Election District. The parcel is identified as Parcel No. 872, in Grid 1-D, on Tax Map 49. The parcel contains 16.13 acres, all of which is zoned B2.

Mr. Rowan Glidden appeared and testified that he is employed by George W. Stephens, Inc., as a landscape architect. Mr. Glidden qualified as an expert in the field of land planning and site development. Mr. Glidden testified that the subject parcel meets the minimum area requirements of 3 acres, that the parcel has direct access to Brierhill Drive which is a collector road and Churchville Road, which is an arterial road. He said that a 10 foot wide buffer will be provided between parking areas and any adjacent residential lots and that the Applicant does not plan to have exterior runways. Mr. Glidden said that he did not feel approval of the variance on the subject parcel would have any greater impact than if approved elsewhere in the zoning district.

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Dr. Richard Streett appeared and testified he is a Doctor of Veterinary Medicine and that he operates a veterinary clinic in Churchville. Dr. Streett said that he would like to open a satellite clinic in the Greenbrier Shopping Center, which will be operated by himself and his son, who will graduate from veterinary school shortly. Dr. Streett said that there will be no outdoor runs and no boarding of animals on the property. Dr. Streett said that he and his son will conduct medical and surgical treatment and that any intensive hospitalization required for an animal will take place at the Churchville clinic.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the Staff had reviewed the Applicant's request and found that the project meets the requirements for the requested Special Exception, and also found that the requested variances are not required. Mr. McClune said that the shopping center property is greater than 3 acres in size and currently has access to a collector road.

CONCLUSION:

The Applicant is requesting a Special Exception to Section 267-53(H)(8) of the Harford County Code, which provides:

"Veterinary clinics or hospitals. These uses may be granted in the AG and B2 Districts, provided that:

- (a) A minimum parcel area of three acres is required.
- (b) The use shall be located with direct access to an arterial or collector road.
- (c) A buffer yard ten feet wide shall be provided between the parking area and any adjacent residential lot.
- (d) Any runways shall be set back at least two hundred feet from any lot line."

The uncontradicted testimony of the witnesses was that the subject parcel exceeds the required minimum lot area, that the parcel has access to Churchville Road which is an arterial road, that the required buffer area will be maintained, and that there will not be external runways.

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The Court of Appeals established the guidelines for a special exception and said:

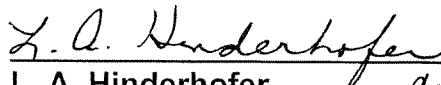
“Thus, these cases establish that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” Schultz v. Pritts, 291 Md. (1991).

The uncontradicted testimony of the Applicant's witness and Mr. McClune of the Department of Planning and Zoning is that the Applicant can comply with the conditions set forth in Section 267-53(H)(8). The testimony also indicated that approval of the veterinary clinic on the subject property would not have an adverse impact on adjoining properties. No evidence was introduced that approval of the request would impact the “Limitations, Guides and Standards” set forth in Section 267-9(I).

Therefore, it is the recommendation of the Hearing Examiner that the requested Special Exception be approved, subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections.
2. That only animals requiring medical/surgical treatment shall be boarded at the site.
3. That there shall be no outside runs.

Date MARCH 27, 2000



L. A. Hinderhofer
Zoning Hearing Examiner